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PTO/BB/01 (07-09)

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U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional) 039,002USWO
First Named Inventor: <u>Doris Hjorth Hansen</u>		Art Unit: <u>3772</u>
Application Number: <u>10/536,815</u>		Examiner: <u>JACKSON, Brandon Lee</u>
Filed: <u>11 August 2005</u>		
Title: <u>POST-OPERATIVE VEST</u>		
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3262.		
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION. NOTE: A grantable petition requires the following items: (1) Petition fee. (2) Reply and/or issue fee. (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995, and for all design applications; and (4) Adequate showing of the cause of unavoidable delay.		
1. Petition fee <input checked="" type="checkbox"/> Small entity -- fee \$ <u>270.00</u> (37 CFR 1.17(f)). Applicant claims small entity status. See 37 CFR 1.27. <input type="checkbox"/> Other than small entity -- fee \$ _____ (37 CFR 1.17(f)).		
2. Reply and/or fee A The reply and/or fee to the above-noted Office action in the form of <u>Amendment & Petition for 2 month extension of time</u> (identify the type of reply): <input checked="" type="checkbox"/> has been filed previously on <u>August 18, 2009</u> <input checked="" type="checkbox"/> is enclosed herewith. B The issue fee of \$ _____ <input type="checkbox"/> has been filed previously on _____ <input type="checkbox"/> is enclosed herewith.		

[Page 1 of 3]

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to be (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 15 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing the burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

11/17/2009 HMARZI1 00000063 501391 10536815

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PTO/SB/61 (07-09)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee:**

- ☒ Since this utility/patent application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature

11/13/2009

Date

Mark A. Litman

26,390

Typed or printed name

Registration Number, if applicable

3209 West 76th Street

952-832-9090

Address

Telephone Number

Edina, MN 55435

Address

Enclosure ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unavoidable delay☒ Revocation and Power of Attorney, Petition for 2 month extension submitted 8/18/2009**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

11/13/2009

Date

Signature

Mark A. Litman

Typed or printed name of person signing certificate

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PTO/SB/01 (07-09)

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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

11/13/2009

Date

Mark A. Litman

Typed or printed name

26,390

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

US Patent Application 10/536,815 became abandoned since the USPTO failed to image the Amendment, Petition for 2 month Extension of Time, Revocation and Power of Attorney and the appropriate transmittal documents, all of which were submitted, by facsimile, on August 18, 2009.

The applicant received a Notice of Abandonment dated October 28, 2009. Upon receipt, the Applicant contacted her newly assigned Attorney, Mark A. Litman, Registration No.: 26,390, and asked him to follow up with this matter.

Applicant's attorney checked the Image Wrapper for 10/536,815, on Public Pair and did not see the Amendment, Petition for Extension of Time, nor the Revocation and Power of Attorney. Applicant has proof that the United States Patent and Trademark Office received said documents on August 18, 2009, since a USPTO Auto-Reply Facsimile Transmission was faxed to the Attorney Litman's office minutes after the August 18, 2009, submission.

Since this is obviously the fault of the United States Patent and Trademark Office, the Applicant should not be responsible for the petition fee of \$270.00. See attached documents originally submitted on August 18, 2009.

Applicant requests that the Office withdraw the Abandonment and Revive the US Patent Application 10/536,815, as well as consider the Amendment, Petition for Extension of Time and Revocation and Power of Attorney as originally submitted on August 18, 2009.

This is a petition to revive an unavoidably abandoned application, the cause of the error in holding the Application being the sole error of the U.S. Patent and Trademark Office.

The Application had received a Non-Final Office Action rejection all claims in the Application mailed on March 20, 2009. In response to this Office Action, new counsel for the client sent in a facsimile transmission on 18 August 2009, which transmission included:

- 1) A complete amendment and response to the Office Action;
- 2) A petition for extension of time and authorization for payment of the petition fee for the time necessary;
- 3) A new power of attorney signed by the client;
- 4) Facsimile transmission sheet; and
- 5) Amendment Transmittal documents including claim count and fee schedule.

All documents were sent with individual and collective transmission by facsimile Certification.

To provide clear evidence of the timely filing of this Amendment, Counsel for Applicant attached hereto a copy of each document sent by facsimile transmission, Counsel's facsimile report from his fax machine of the successful facsimile transmission to the US Patent and Trademark Office at 571.273.8300 and the transmission receipt from the US PTO dated 18 August 2009 indicating receipt of all pages of the transmission.

As all appropriate and required documents for a complete response to the Office Action were in fact timely and correctly filed with the US Patent and Trademark Office, and as Applicant has shown by clear and convincing evidence that the documents were both sent to and received by the US Patent and Trademark Office, the abandonment of this application was unavoidable and should be withdrawn, with no fees charged to Applicant.

(Please attach additional sheets if additional space is needed.)

[Page 3 of 3]

NOV 13 2009

PTO/SB/17 (10-08)

Approved for use through 06/30/2010. OMB 0651-0032
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

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Effective on 12/09/2004. Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818). FEE TRANSMITTAL For FY 2009		Complete if Known Application Number: 10/536,815 Filing Date: 11 August 2005 First Named Inventor: Davis Hirth-Hanson Examiner Name: JACKSON, Brandon Lee Art Unit: 3772 Attorney Docket No.: 038.002USWO	
<input checked="" type="checkbox"/> Applicant claims small-entity status. See 37 CFR 1.27			
TOTAL AMOUNT OF PAYMENT (\$)	270.00		

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 50-1391 Deposit Account Name: Mark A. Litman

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2028.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	330	165	540	270	220	110	0
Design	220	110	100	50	140	70	0
Plant	220	110	330	165	170	85	0
Reissue	330	165	540	270	650	325	0
Provisional	220	110	0	0	0	0	0

2. EXCESS CLAIM FEES

Fee Description	Small Entity Fee (\$)	Fee Paid (\$)
Each claim over 20 (including Reissues)	52	26
Each independent claim over 3 (including Reissues)	220	110
Multiple dependent claims	390	195

Total Claims: _____ Extra Claims: _____ Fee (\$): _____ Fee Paid (\$): _____
 HP = highest number of total claims paid for, if greater than 20.

Indep. Claims: _____ Extra Claims: _____ Fee (\$): _____ Fee Paid (\$): _____
 HP = highest number of independent claims paid for, if greater than 3.

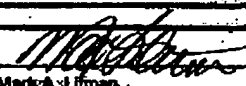
3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$270 (\$135 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(a).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	0

4. OTHER FEE(S)

Description	Fee (\$)	Fee Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	0	0
Other (e.g., late filing surcharge): Petition For Revival of an Application for Patent Abandoned Unavoidably	\$270	0

SUBMITTED BY Signature:  Name (Print/Type): Mark A. Litman		Registration No. 26,390 (Attorney/Agent)	Telephone 862-832-8080 Date 11/13/2009
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This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 36 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1460, Alexandria, VA 22313-1460. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1460, Alexandria, VA 22313-1460.

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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/336,815	08/11/2005	Doris Hjorth Hansen	133630-0001	1376

7590 10/28/2009
 DORIS H. HANSEN
 CASALE NASSIO SOPRA 15
 1-10010 CHIAVERANO, ITALY,
 DENMARK

EXAMINER	
JACKSON, BRANDON LEE	

ART UNIT	PAPER NUMBER
3772	

MAIL DATE	DELIVERY MODE
10/28/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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NOV 13 2009

Notice of Abandonment	Application No.	Applicant(s)	
	10/536,815	HANSEN, DORIS HJORTH	
	Examiner	Art Unit	
	BRANDON JACKSON	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

- ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 20 March 2009.
 - ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - ☒ No reply has been received.
- ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - ☐ The issue fee and publication fee, if applicable, has not been received.
- ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - ☐ No corrected drawings have been received.
- ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
- ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
- ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
- ☒ The reason(s) below:

As of 7 months of the last mailed Office Action, no reply has been filed.

/Michael Brown/
Primary Examiner, Art Unit 3772

Positions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

NOV 13 2009

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8/18/2009 12:57:10 PM

PAGE 1/001

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8/18/2009 11:54 FAX 9528329191 MARK A. LITMAN & ASSOC 0009/0024

MARK A. LITMAN & ASSOCIATES, P.A.
PATENT, TRADEMARK & COPYRIGHT ATTORNEYS
York Business Center, Suite 305
3250 West 7th Street
Edina, MN 55465
Telephone (952) 932-9191 Facsimile (952) 932-9191

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Hansen, Dale H/och	Examiner:	JACKSON, Brandon
Serial No.	10888,618	Group Art Unit:	5772
Filed:	11 August 2008	Classified No.	008,000,000
Title:	POST-OPERATIVE VEST		

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By:
Mark A. Litman
Reg. No. 35,390

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Mark A. Litman

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hansen, Doria Hjoeth

Examiner: JACKSON, Brandon

Serial No. 10/536,815

Group Art Unit: 3772

Filed: 11 August 2005

Docket No. 039.002USWO

Title: POST-OPERATIVE VEST

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Hansen, Doris Hjorth

Examiner: JACKSON, Brandon

Serial No. 10/536,815

Group Art Unit: 3772

Filed: 11 August 2005

Docket No. 039,002USWO

Title: POST-OPERATIVE VEST

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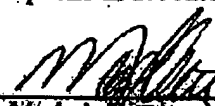
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Reg. No. 26,390

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Mark A. Litman8/12/09
Date

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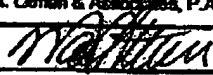
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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10538,813	
	Filing Date	11 August 2009	
	First Named Inventor	Hansen, Doris Hjorth	
	Art Unit	3712	
	Examiner Name	JACKSON, Brandon	
Total Number of Pages in This Submission	14	Attorney Docket Number	039.0029.8940

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input checked="" type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply/Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavit/Declaration(s)	<input checked="" type="checkbox"/> Power of Attorney, Revocation/Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Facsimile Cover Sheet
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Reply to Missing Parts/Incomplete Application	Remarks Please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers if an additional extension of time is deemed necessary by the Office. Authorization is hereby given to charge Deposit Account Number 50-1391 if such additional extension is necessary.	
<input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT		
Firm Name	Mark A. Litman & Associates, P.A.	
Signature		
Printed name	Mark A. Litman	
Date	18 August 2009	Reg. No. 28,390

CERTIFICATE OF TRANSMISSION/MAILING		
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